

TERRY PEACH 4/10/2009

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in)
his capacity as ATTORNEY)
GENERAL OF THE STATE OF)
OKLAHOMA and OKLAHOMA)
SECRETARY OF THE ENVIRONMENT)
C. MILES TOLBERT in his)
capacity as the TRUSTEE FOR)
NATURAL RESOURCES FOR THE)
STATE OF OKLAHOMA,)
)
Plaintiff,)
)
vs.) No. 05-CV-00329-GKF-PJC
)
TYSON FOODS, INC, et al.,)
)
Defendants.)

VIDEOTAPED DEPOSITION OF TERRY PEACH.

before the undersigned Certified Shorthand Reporter, taken on behalf of the Defendants, at the Attorney General, 313 Northeast 21st Street, Oklahoma City, Oklahoma, commencing at 9:06 a.m., on April 10, 2009, pursuant to the stipulations of the parties.

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1 in that; is that correct?

2 A. Yes.

3 Q. Let me ask you about the Oklahoma
4 Conservation Commission. Are you -- are you aware
5 that the state of Oklahoma pays people through the
6 Oklahoma Conservation Commission to teach people how
7 to use litter, how to apply litter and use litter in
8 the IRW?

9 A. Yes, sir.

10 MR. HAMMONS: Object to the form.

11 Q. (By Mr. Sanders) Is it odd to you that
12 the state of Oklahoma on the one hand pays employees
13 to teach people how to use litter in the IRW and on
14 the other hand the state of Oklahoma is suing to
15 prevent the use of litter in the IRW?

16 MR. HAMMONS: Object to the form.

17 Q. (By Mr. Sanders) Does that seem odd to
18 you?

19 A. Yes, sir.

20 Q. You know also that there are point sources
21 of nutrients and bacteria for that matter in the IRW;
22 is that correct?

23 A. Restate the question.

24 Q. Do you understand that there are point
25 sources that -- like municipal wastewater treatment

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1 plants that have pipes that go directly to the waters
2 of the Illinois River watershed?

3 A. I understand that there are possible other
4 sources, yes. Not that they are a source.

5 Q. Okay. All right. But those other point
6 sources?

7 A. Yes.

8 Q. And do you understand that those point
9 sources contribute the nutrients and bacteria 365
10 days of the year?

11 MR. HAMMONS: Object to the form.

12 A. Yes, sir.

13 Q. (By Mr. Sanders) All right. And do you
14 understand that those -- the nutrients and the
15 bacteria from those point sources occur whether it's
16 a low flow condition in the river or a high flow
17 condition?

18 A. Yes, sir.

19 Q. And in low flow conditions all of that
20 matter doesn't get washed down to Lake Tenkiller
21 right away, does it?

22 MR. HAMMONS: Object to the form.

23 Q. (By Mr. Sanders) Because the river -- the
24 flow in the creeks and river are low.

25 A. I can't speak to the flow of rivers and

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1 streams in Oklahoma.

2 Q. All right.

3 A. Or the Illinois River watershed.

4 Q. Do you know that nutrients and bacteria
5 from point sources settle in sediments in the river
6 during low flow conditions?

7 MR. HAMMONS: Object to the form.

8 A. I understand there's a potential for that,
9 yes, sir.

10 Q. (By Mr. Sanders) All right. And --

11 VIDEOGRAPHER: Bob, excuse me.

12 MR. SANDERS: Yeah.

13 VIDEOGRAPHER: Stand by, please.

14 (Change tapes.)

15 VIDEOGRAPHER: We're back on.

16 Q. (By Mr. Sanders) All right. And are you
17 aware also that during high flow events in say the
18 Illinois River itself that the -- the channel of the
19 river will be scoured by the high flow and the
20 sediments that were there will be resuspended?

21 MR. HAMMONS: Object to the form.

22 A. I understand that there's a potential for
23 that, yes, sir.

24 Q. (By Mr. Sanders) All right. And do you
25 understand that some of the nutrients and bacteria

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1 that were deposited in sediments during low flow
2 conditions will be resuspended in the river during
3 high flow events.

4 A. Yes, sir.

5 MR. HAMMONS: Object to the form.

6 Q. (By Mr. Sanders) And all of that is to
7 lead up to this: Has ODAFF ever tried to quantify
8 what part of the nutrients and bacteria that are
9 measured in high flow conditions originated from the
10 resuspension of settlement -- sediment during high
11 flow conditions?

12 MR. HAMMONS: Object to the form.

13 A. No, we have not to my knowledge.

14 Q. (By Mr. Sanders) Do you know if any state
15 agency has ever tried to quantify what part of the
16 bacteria or nutrients in high flow conditions arise
17 from the resuspension of sediment that was deposited
18 during low flow conditions?

19 A. Again, not to my knowledge.

20 Q. All right. Were you consulted by anyone
21 before this lawsuit was filed about the possibility
22 of a lawsuit being filed?

23 A. Yes.

24 Q. Can you tell me who consulted?

25 A. Primarily my conversation would have been